

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

August 4, 2008

No. 07-61028
Summary Calendar

Charles R. Fulbruge III
Clerk

THEODORE HENDERSON

Petitioner

v.

DIRECTOR, OFFICE OF WORKER'S COMPENSATION PROGRAMS, US
DEPARTMENT OF LABOR; PENROD DRILLING COMPANY

Respondents

Petition for Review of an Order of the
Benefits Review Board

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:*

Theodore Henderson seeks review of the decision of the Benefits Review Board of the United States Department of Labor, which denied Henderson's claim under the Longshore and Harbor Workers' Compensation Act ("the Longshore Act"), 33 U.S.C. § 901 et seq. We find that there is substantial evidence to support the determination of the Benefits Review Board. The jack-up rig on which Henderson worked was a "vessel," *Demette v. Falcon Drilling*

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Co., 280 F.3d 492, 498 n.18 (5th Cir. 2002), and substantial evidence supports the finding that Henderson's duties as a roustabout rendered him a member of the rig's "crew." Therefore, Henderson is excluded from coverage under the Longshore Act, 33 U.S.C. § 902(3)(G), and the Benefits Review Board properly dismissed Henderson's claim.

Petition for review is DENIED. Motion for appointment of counsel is DENIED.